

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

**DANNY RICHARD RIVERS,  
TDCJ No. 01775951,**

**Petitioner,**

v.

**BOBBY LUMPKIN, Director,  
Texas Dep't of Criminal Justice,  
Correctional Institutions Division,**

**Respondent.**

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**Civil Action No. 7:21-cv-012-O-BP**

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF  
THE UNITED STATES MAGISTRATE JUDGE AND TRANSFERRING THIS CASE  
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

This is a habeas action brought pursuant to 28 U.S.C. § 2254 in which Petitioner challenges the validity of his conviction and sentence in the 30th Judicial District Court of Wichita County, Texas, for continuous sexual abuse of a young child, indecency with a child by sexual contact and by exposure, and possession of child pornography. The United States Magistrate Judge entered his Findings, Conclusions, and Recommendation in which he determined that the petition is successive. *See* ECF No. 25. He recommends that the petition be transferred to the United States Court of Appeals for the Fifth Circuit. *Id.* Petitioner has filed objections. *See* ECF No. 27.

The District Court reviewed de novo those portions of the Findings, Conclusions, and Recommendation to which objections were made and reviewed the remaining Findings, Conclusions, and Recommendation for plain error. Finding no error, I am of the opinion that the findings of fact, conclusions of law, and reasons for transfer set forth in the Magistrate Judge's Recommendation are correct and they are hereby adopted and incorporated by reference as the Findings of the Court.

Where a petition for writ of habeas corpus is second or successive, the petitioner must seek an order from the Fifth Circuit Court of Appeals that authorizes this Court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Because the instant petition is successive, the district court is without jurisdiction to entertain the petition unless leave to file is granted by the Court of Appeals. *See Crone v. Cockrell*, 324 F.3d 833 (5th Cir. 2003).

It is therefore **ORDERED** that the petition for writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254, is hereby **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002) and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997). Petitioner's pending motions are **DISMISSED** as **MOOT**.

**SO ORDERED** this 23rd day of September, 2021.

  
Reed O'Connor  
UNITED STATES DISTRICT JUDGE